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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
IDF 1761 (4000-06400)

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Application Number	Filed
10/086,099	02/28/2002
First Named Inventor	
Matthew Barrow	
Art Unit	**Examiner**
2157	El Hadji Malick Sall

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☑ attorney or agent of record. Registration number 39,624
- ☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Signature
Rodney B. Carroll
Typed or printed name
972-731-2288
Telephone number
11-1-07
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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REASONS FOR REQUESTING PRE-APPEAL BRIEF REVIEW

Claims 1-12 are pending and are set out in the Response to the Final Office Action filed on August 31, 2007.

The Final Office Action dated July 13, 2007 rejected claims 1-12 over Lenz or a combination of Lenz and other art. Therefore, claims 1-12 stand or fall on the application of Lenz to claims 1, 9, and 10.

Applicants respectfully note all of the arguments presented in the response filed on August 31, 2007, some of which are repeated herein.

Claim 10:

I. Lenz does not disclose a customer premises telecommunications hub.

The client of Lenz has been interpreted throughout prosecution as being inherent disclosure of the claimed customer premises telecommunications hub. Applicants note that Lenz does not directly disclose that the client is a customer premises telecommunications hub. Further, Applicants respectfully submit that it is not a matter of scientific fact that the client of Lenz is a customer premises telecommunications hub.

A search of Lenz did not result in any disclosure of a customer premises. Applicants respectfully submit that it is not a matter of scientific fact that the client of Lenz is a customer premises client.

The Federal Standard 1037C Glossary of Telecommunications Terms defines the term "hub" as "a device that accepts a signal from one point and redistributes it to one or more points." While the client of Lenz is disclosed to receive data from the server, Lenz does not provide any disclosure that the client then redistributes or forwards the data on to one or more points, or in one or more directions. Applicants note that while the client of Lenz is also disclosed to be able to send data to the server, this is not disclosure of redistributing or forwarding data that has arrived at the client to the server. Therefore, it is clear that the client of Lenz is not a "hub", much less a customer premises telecommunications hub as claimed. Applicants further submit that the server of Lenz may not properly be interpreted as the claimed customer premises telecommunications hub.

II. Lenz does not disclose comparing parameters of the hub to parameters in the new configuration file and identifying which parameters are different.

Claim 10 recites, "comparing parameters controlling operation of the customer premises telecommunications hub to parameters contained in the new configuration file and identifying parameters which are different." The Final Office Action summarizes the process disclosed in column 6, lines 28-35 of Lenz as updating the old files with the new files. The Final Office Action interprets the updating as inherently identifying parameters in a new file that are different from existing parameters. Lenz only discloses in column 3, lines 11-12 that the configuration file is executed upon receipt.

Applicants respectfully submit that performing a comparison of parameters in the configuration file received from the server with parameters controlling operation of the client and identifying parameters which are different is not necessarily present in Lenz. Further, it is not a matter of scientific fact that configuring the client using the configuration file received from the server has to perform a comparison of parameters in the configuration file received from the server with parameters controlling operation of the client and identifying parameters which are different. For example, the configuration file may simply overwrite or swap out the old files with the new files to perform an update without ever performing a comparison or identification of differences as required in claim 10.

III. Lenz does not disclose identifying parameters which can be changed dynamically.

Claim 10 recites, "identifying parameters which can be changed dynamically."

The Final Office Action relied on disclosure in column 4, lines 28-42 of Lenz. The Final Office Action likens the disclosure of an administrator automatically pushing out software updates that he wants to a determination of whether parameters may be changed dynamically. Applicants respectfully submit that this disclosure merely teaches that an administrator can identify which software to update. This disclosure does not teach or suggest identifying parameters which can be changed dynamically as required by Claim 10.

The rejection of claim 10 in the Final Office Action also relied on disclosure of column 6, lines 28-29. This disclosure is merely a limitation of Claim 1 of an operation performed on the server. The server identifies a configuration file that is associated with the client. Applicants

note that this is an identification of a file, not an identification of parameters within a file. Further, there is no disclosure of identifying parameters which can be changed dynamically.

As disclosed in paragraph 0037 of the disclosure, each parameter used in a module is designated as to whether or not it can be dynamically changed or requires a system reboot. Therefore, some parameters can be dynamically changed and other parameters cannot be dynamically changed and require a system reboot. Lenz does not provide any such disclosure of some parameters being able to be dynamically changed and others not being able to be dynamically changed. Therefore, Lenz does not provide any disclosure of identifying parameters which can be dynamically changed.

IV. Lenz does not disclose determining if all parameters which are different can be dynamically changed.

The Examiner asserts that Lenz teaches a means for, if all parameters which are different can be changed dynamically, dynamically updating parameters to those contained in the new configuration file, citing col. 5, lines 41-44. As noted above, Lenz teaches nothing about distinguishing between parameters which can be changed dynamically and those that can be changed only by rebooting. Thus, Lenz could not teach a step of updating based on such distinction. The cited portion of Lenz discusses only the transfer of a file from the server to the client. It has nothing to do with how the client changes the parameters of the file internally.

V. Lenz does not disclose conditionally performing a dynamic update of parameters.

Claim 10 recites, "**if** all parameters which are different can be changed dynamically, dynamically updating parameters to those contained in the new configuration file." Therefore, claim 10 requires that the condition be met that all of the parameters that have been identified as different have also been identified as parameters which can be changed dynamically prior to dynamically updating the parameters. Applicants note that there is no disclosure of any conditions being met prior to dynamically setting configuration data, much less disclosure of a condition that all of the parameters that have been identified as different have also been identified as parameters which can be changed dynamically prior to dynamically updating the parameters. The condition required by claim 10 is further emphasized through the limitations of claim 11, where the other side of this condition is defined as "if any parameter which is different

cannot be changed dynamically, causing the customer premises telecommunications hub to reboot."

Claim 9:

Claim 9 includes similar limitations to those discussed above in the arguments of sections I-V. These arguments are hereby repeated for claim 9. Applicants note that claim 9 recites a check function and an updated function. As described in paragraph 0037 of the disclosure, the check function determines whether any parameters which affect a functional module have been changed and, for each parameter that has been changed, the check function further determines whether the parameter can be changed dynamically or requires a reboot of the hub. As described in paragraph 0039 of the disclosure, the update function reads configuration parameters from the new configuration file which affects the functional module and stores a local copy of the new parameters. The updated functional module operates with the new parameters. For at least the reasons discussed above, Applicants respectfully submit that Lenz does not disclose a check function and an update function on the customer premises telecommunications device.

VI. Lenz does not disclose a plurality of functional program modules operating with parameters contained in the configuration file.

Claim 9 recites, "a customer premises telecommunications hub, comprising ... a microprocessor having a plurality of functional program modules operating with parameters contained in the configuration file, each functional program module storing configuration file parameters which affect its operations." As described in paragraph 0016 of the disclosure, the functional program modules may include a control module 51 that controls the telephony functions, an Ethernet control module 67, and an ATM control module 55 that controls the communications with the network, for example. Applicants respectfully submit that the client 401 does not have a plurality of functional program modules. Further, Applicants respectfully submit that Lenz does not disclose a configuration file stored at the client 401 where the functional program modules operate with parameters contained in the configuration file. Still further, Applicants respectfully submit that Lenz does not disclose that each of the functional program modules stores parameters of the configuration file that affects their operation.

VII. Lenz does not disclose a configuration update module.

Claim 9 recites, "a customer premises telecommunications hub, comprising ... a configuration update module adapted to receive a new configuration file ... and to call the check function and the update function in each functional module."

The Final Office Action relied on the disclosure of Fig. 12 of Lenz to read on these claim limitations. As noted above, Fig. 12 shows the processes that may be performed by the server. In contrast, the limitations of the configuration update module are recited as part of a customer premises telecommunications hub, which the Final Office Action has interpreted as the client in the disclosure of Lenz. It is unclear how processes performed on the server may be interpreted as functionality of the client. Applicants respectfully submit that the server may not be properly interpreted as the claimed customer premises telecommunication hub. For example, Lenz does not disclose that the server calls the check function and the update function as claimed. Further, none of the processes of Fig. 12 call any functions to "each functional module" as claimed.

Claim 1:

Claim 1 includes similar limitations to those discussed above in the arguments of sections I-V. These arguments are hereby repeated for claim 1. Applicants respectfully submit that Fletcher does not cure the deficiencies of Lenz noted in sections I-V.

CONCLUSION

Applicants respectfully submit that the present application as amended is in condition for allowance. If the Examiner has any questions or comments or otherwise feels it would be helpful in expediting the application, he is encouraged to telephone the undersigned at (972) 731-2288.

Respectfully submitted,
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Date: 11-1-07

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